

# Exhibit E

UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CHARLIE THORNTON,

Plaintiff,

v.

FEDEX GROUND PACKAGE SYSTEM, INC.

Defendant.

Civil Action No.  
2:05-cv-00656-MEF-DRB

**DEFENDANT FEDEX GROUND'S INITIAL RULE 26 DISCLOSURE**

**PRELIMINARY STATEMENT**

Defendant Federal Express Ground Package System, Inc. ("FedEx Ground"), has not completed the investigation of all the facts of this case, or discovery in, or analysis of this matter, and has not completed preparation for trial. Accordingly, this disclosure statement is provided pursuant to Rule 26 of the Federal Rules of Civil Procedure and the Local Rules of this Court without prejudice to Defendant's rights to introduce at trial any evidence that is subsequently discovered relating to proof of presently known facts, and to produce and introduce all evidence whenever discovered relating to the proof of subsequently discovered material facts. Moreover, facts, documents and things now known may be imperfectly understood and, accordingly, such facts, documents, and things may not be included in the following statement. Defendant reserves the right to refer to, conduct discovery with reference to, or offer into evidence at the time of trial any and all facts, documents and things notwithstanding the initial statements herein. Defendant

further reserves the right to refer to, conduct discovery with reference to, or offer into evidence at the time of trial any and all facts, documents and things which it does not presently recall, but may recall at some time in the future.

Defendant objects to the disclosure of information that is protected by the attorney-client privilege, the work product doctrine or any other applicable privilege. To the extent that Defendant inadvertently discloses information that may be protected from discovery under the attorney-client privilege, the work product doctrine or any other applicable privilege, such inadvertent disclosure does not constitute a waiver of any such privilege.

The information set forth below is provided without in any manner waiving (1) the right to object to the use of any response for any purpose, in this action or any other actions, on the grounds of privilege, relevance, materiality, or any other appropriate grounds; (2) the right to object to any requests involving or relative to the subject matter of the responses herein; (3) the right to revise, correct, supplement or clarify any of the responses provided below, at any time. Defendant specifically reserves the right to supplement its responses herein in accordance with the Federal Rules of Civil Procedure and the rules of this Court.

**INITIAL DISCLOSURE NO. 26(a)(1)(A):**      **The name, last known address and telephone number of each person reasonably likely to have information that bears significantly on the claims and defenses, identifying the subjects of the information.**

**RESPONSE TO INITIAL DISCLOSURE NO. 26(a)(1)(A):** Defendant objects to any ex parte contact by Plaintiff or Plaintiff's counsel of any designated individuals employed by Defendant. Defendant also objects to providing the address and telephone numbers of such employees. All FedEx Ground employees may be contacted through the undersigned counsel for

FedEx Ground. Without waiving said objections, the following persons may possess knowledge of the facts alleged in the Complaint and the issues in dispute in this lawsuit:

**FedEx Ground Employees:**

**Kent Gastineau** – FedEx Ground understands that as an Operations Manager at the FedEx station in Montgomery, Alabama, Mr. Gastineau has knowledge of Charlie Thornton's interactions with FedEx Ground.

**Joe McConnell** – FedEx Ground understands that as FedEx Ground's Senior Manager for Birmingham, Mr. McConnell has knowledge of Charlie Thornton's interactions with FedEx Ground.

**Tim Edmonds** – FedEx Ground understands that as FedEx Ground's Managing Director for Contractor Relations, Mr. Edmonds has knowledge of FedEx Ground's internal operation and procedure for the contracting of delivery drivers.

**Non-FedEx Ground Employees:**

**Stan Trott** – FedEx Ground understands that Mr. Trott, a former FedEx Ground employee, was Charlie Thornton's first contact with FedEx Ground. On information and belief, Mr. Trott's last known address is 9233 Bradford Place, Montgomery, Alabama 36117. His phone number is (334) 274-9180.

**Charlie Thornton** – FedEx Ground assumes that Mr. Thornton has detailed knowledge concerning the nature of his claim against FedEx Ground and the nature and extent of damages that he has allegedly suffered as a result of alleged acts or omissions by FedEx Ground. On information and belief, FedEx Ground believes that Mr. Thornton is located at 75 Pine Court, Millbrook, Alabama 36054. His phone number is (334) 285-7915.

INITIAL DISCLOSURE NO. 26(a)(1)(B): A general description, including location, of all documents, data, compilations, and tangible things in the possession, custody or control of that party that are likely to bear significantly on the claims and defenses.

RESPONSE TO INITIAL DISCLOSURE NO. 26(a)(1)(B): Defendant is a large corporation, and therefore documents may exist that have yet to be discovered. Defendant is still in the process of looking for relevant documents, and Defendant specifically reserves the right to supplement its production if such additional documents are discovered. Without waiving said objections, to the extent they can be identified, non-privileged responsive documents will be produced. These documents, which are maintained by FedEx Ground, are Bates Numbered as FXG 0000-01, etc., and include the following:

1. Communications and documents related to Mr. Thornton's application for a loan to purchase or lease/purchase a delivery van.
2. Documents relating to Mr. Thornton's certification and qualification as a potential FedEx Home Delivery contractor.
3. Documents relating to Mr. Thornton's application to become a FedEx Home Delivery contractor.

Counsel for FedEx Ground is also in possession of documents it received from Kent Gastineau. These documents are Bates Numbered as KG 0000-01, etc., and include a handwritten letter from Mr. Thornton to Mr. Gastineau, dated May 18, 2005, and some documents enclosed with said letter.

INITIAL DISCLOSURE NO. 26(a)(1)(C): Computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule

34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

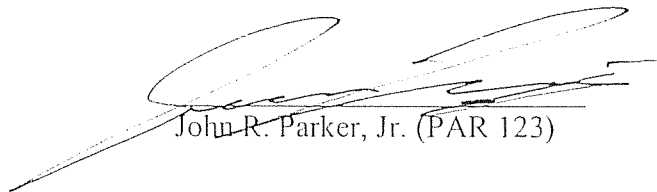
RESPONSE TO INITIAL DISCLOSURE 26 (a)(1)(C): None.

INITIAL DISCLOSURE NO. 26(a)(1)(D): The existence and contents of any insurance agreement under which any person or entity carrying on an insurance business may be liable to satisfy part or all of the judgment that may be entered in the action, or indemnify or reimburse for payments made to satisfy the judgment, making available such agreement for inspection and copying.

RESPONSE TO INITIAL DISCLOSURE 26 (a)(1)(D): None.

Dated: September 20, 2005

Respectfully submitted,



John R. Parker, Jr. (PAR 123)

**SPOTSWOOD LLC**

ROBERT K. SPOTSWOOD (SPO 001)

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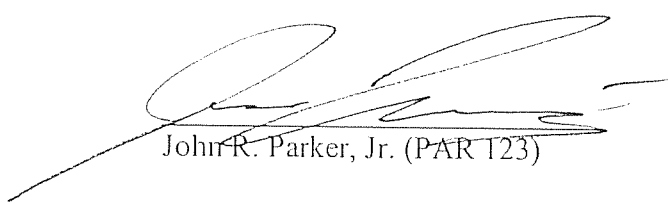
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CERTIFICATE OF SERVICE

I hereby certify that on September 20, 2005, I served the foregoing Initial Rule 26 Disclosure via U.S. First Class Mail to the following counsel of record for the Plaintiff:

K. Anderson Nelms  
P.O. Box 5059  
Montgomery, AL 36103

DATED: September 20, 2005



John R. Parker, Jr. (PART 23)

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